

**CONTRACT
FOR
LUMPKIN COUNTY FIRE STATION #7
PROJECT # 2016-005**

This agreement is made and entered into between the governing authority of **Lumpkin County**, hereinafter referred to as “Lumpkin County”, a political subdivision of the State of Georgia, and **E & P General Contractors, LLC**, hereinafter referred to as “Contractor”.

Whereas, in consideration of the mutual benefits accruing to each party, the parties hereby agree as follows:

A. Summary of Work and Payment:

1. Contractor shall provide all necessary labor, material and equipment to erect and construct a metal building to be used as a fire station on Lumpkin County property in the Frogtown community according to the Construction Specifications and Drawings contained in the Invitation to Bid issued by the Lumpkin County Board of Commissioners on March 16, 2016 for Project Number 2016-005, and all Addenda issued thereto (hereinafter referred to as ‘Work’). All Work must comply with the Department of Justice 2010 ADA Standards for State and Local Government Facilities (Title II).

2. Contractor shall be authorized to begin work upon the issuance of a Notice to Proceed from Lumpkin County. All work shall be completed within 180 days of the issuance of the Notice to Proceed.

3. The Contractor shall employ and assign only qualified and competent personnel to perform any service or task involved in this project. The Contractor shall designate one such person as a Project Manager, and the Project Manager shall be deemed to be the Contractor’s authorized representative, who shall be authorized to receive and accept any and all communications from the County. The County shall name a Project Manager who shall be authorized to generate, receive and accept communication as an authorized representative of the County.

4. The Contractor hereby agrees to replace any personnel or sub-contractor, at no cost or penalty to the County, if the County reasonably determines that the performance of any sub-contractor or personnel is unsatisfactory.

5. Contractor shall be paid the sum of **\$206,775.00** for the Work completed under this contract according to the following payment terms:

Contractor shall itemize all invoices in full. The original of the invoice shall be mailed to:

Accounts Payable
Lumpkin County Board of Commissioners
99 Courthouse Hill, Suite D
Dahlonega, GA 30533

Invoices may be submitted monthly for work completed. Each invoice must include the following information:

- | | |
|----------------------|--|
| 1. Date of Invoice | 5. All billable items must be itemized |
| 2. Service Performed | 6. Appropriate Unit of Measure |
| 3. Billing Period | |
| 4. Terms | |

Contractor must furnish documentation identifying that this work has been completed in accordance with specifications, quantities, and price as set forth in the contract.

A ten (10) percent retainage will be held on each invoice.

Approved invoices (less retainage) will be paid within 10 days of approval.

Invoices missing any of the information listed above will not be accepted for payment but will be returned to the Contractor for correction.

All retainage shall be paid within 10 days upon final acceptance of the completed Work by Lumpkin County.

B. Liability:

Contractor shall be responsible for his work and every part thereof, and for all materials, tools, equipment, appliances, and properties of any and all description used in connection with this Contract.

Contractor assumes all risks of direct and indirect damage or injury to the property of persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

Contractor shall be liable for any collateral damage caused as a result of its work under this Contract. Contractor shall restore and/or repair, at Contractor's cost, any and all collateral damage, back to its pre-existing condition if the damage was caused by Contractor's activities.

C. Insurance:

The Contractor shall, during the continuance of all work under the Contract, provide and maintain all insurance policies required by the Invitation to Bid.

D. Assignment of Contractual Rights and Subcontracting:

It is agreed that the Contractor will not assign, transfer, convey, or otherwise dispose of this contract or its right, title, or interest in or to the same, or any part thereof, without written consent of the County.

Contractor shall not subcontract any work without the express written consent of the County. The County must approve all subcontractors.

E. Indemnity:

To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold Lumpkin County harmless from and against any and all claims, damages, losses, and expenses, including, but not limited to, fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the negligent acts, negligent omissions, willful misconduct, or reckless misconduct of the Contractor or anyone for whom the Contractor is responsible.

F. Documents Deemed Part of Contract:

Unless otherwise modified by this Contract, Lumpkin County's Invitation to Bid issued March 16, 2016, the Construction Specifications for ITB # 2016-005 Erection of a Metal Building, 2149 Town Creek Church Rd, Dahlonega, GA 30533, issued by Lumpkin County, the Department of Justice 2010 ADA Standards for State and Local Government Facilities (Title II), and the drawings/plans entitled Site Plan - Lumpkin County Fire Station 7 dated February 12, 2016, shall be deemed part of the contract. No documentation or information provided by the Contractor shall be deemed part of the contract unless expressly incorporated herein.

G. Severability:

It is understood and agreed by the parties hereto that if any part, term, or provision of this Contract is held illegal or in conflict with any law of the State of Georgia, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provisions held to be invalid.

H. Dispute Resolution:

Lumpkin County and the Contractor agree to resolve through negotiation or mediation prior to filing any cause of action. The venue for any litigation arising from this contract shall be Lumpkin County, Georgia.

I. Cancellation:

Lumpkin County reserves the right to terminate the contract immediately in the event that the Contractor discontinues or abandons operations, is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.

Failure of the Contractor to comply with any section or part of the contract will be considered grounds for immediate termination of the contract by the County without penalty to Lumpkin County. Lumpkin County shall pay for services rendered up to the point of termination.

This contract shall terminate immediately and absolutely at any such time as there are no appropriated and otherwise unencumbered funds available to satisfy the County's obligation under said contract.

Notwithstanding anything to the contrary contained herein, the County may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving thirty (30) days written notice to the Contractor.

If the termination clause is used by the County, the Contractor will be paid by the County for all scheduled work completed satisfactorily by the Contractor up to the termination date set forth in the written termination notice.

J. Safe Working Environment and Drug Free Workplace

Contractor shall provide a safe working environment.

Contractor certifies that the provisions of Code Sections 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-free Workplace Act", have been complied with in full. The Contractor further certifies that:

1. A drug-free workplace will be provided for the Contractor's employees during performance of the contract; and

2. If Contractor hires a SubContractor to work in a drug-free work place, Contractor shall secure from that Sub Contractor the following written certification:

As part of the subcontracting agreement with (Contractor's name), (Sub Contractor's name) certifies to the Contractor that a drug-free workplace will be provided for the Sub Contractor's employees during the performance of this Contract pursuant to Paragraph (7) of Sub-section (b) of Code Section 50-24-3".

The Contractor further certifies that it will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

K. Amendments or Modifications:

All contract amendments or modifications must be in writing and signed by all parties.

L. Notices:

Any notice, order, instruction, claim, or other written communication required or permitted under this contract shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, which delivery may be accomplished by in person hand delivery, via bona fide overnight express service or telephonic facsimile transmission; or

2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, with return receipt requested, addressed to the Contractor at the following address:

E & P General Contractors, LLC
Attn: Jonathan Sims, Managing Member
2500 W. Broad St., Ste 605
Athens, GA 30606

and to Lumpkin County at the following address:

Lumpkin County Board of Commissioners
Attn: Stan Kelly, County Manager
99 Courthouse Hill, Ste H
Dahlonega, GA 30533.

This Contract is made and entered into this _____ day of _____, 2016.

Lumpkin County:

E & P General Contractors, LLC

Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Jonathan Sims, Managing Member

Attest:

Kathleen Walker
Lumpkin County Clerk